

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LEVI MORDEN and ADEEL SIDDIQUI,

Plaintiffs,

v.

T-MOBILE USA, INC.,

Defendant.

CASE NO. C05-2112RSM

ORDER GRANTING MOTION
FOR PROTECTIVE ORDER

This matter comes before the Court on defendant's Motion for Protective Order to limit defendant's production to plaintiffs of personal identifying information of putative class members to only the information for individuals who opt into this case as plaintiffs. (Dkt. #159). Defendant argues that the putative class members have a legitimate expectation of privacy in their personal identifying information and that plaintiffs will have access to the individuals who will be of potential relevance to the case through the information provided on the opt-in forms. In the alternative, defendant asks the Court to protect the confidentiality of the putative class members by giving them the ability to elect whether they wish to have their personal information provided to plaintiff's counsel.

Plaintiffs oppose the motion, arguing that defendant's motion is actually an untimely motion for reconsideration of this Court's prior decision directing defendant to produce such personal identifying information, and that, in any event, the information sought is highly relevant to its case. (Dkt. #161).

Having considered defendant's motion, plaintiffs' opposition, defendant's reply, the exhibits in support thereof, and the remainder of the record, the Court hereby finds and ORDERS:

1 (1) Defendant's Motion for Protective Order (Dkt. #159) is GRANTED. As a threshold
2 matter, the Court is not persuaded that the instant motion is an untimely motion for reconsideration.
3 The record is clear that defendant preserved its current arguments, and that plaintiffs expressly agreed
4 to defer the issues raised in this motion until after the Court had ruled on plaintiffs' motion for
5 conditional certification.

6 Further, the Court agrees with defendant that plaintiff's desire to contact all ARs and TRs who
7 might opt-in to the potential class in this action does not outweigh the privacy interests of those
8 people. Here, the scope of plaintiffs' class will be defined by the individuals who opt in, and plaintiffs
9 will receive all of the contact information for those individuals. In addition, plaintiffs will have access
10 to any sample of witnesses for whom the parties reserve the right to call at trial, and any sample of the
11 non-opt-in people that the parties agree will be eligible to testify with respect to decertification of the
12 class or at trial.

13 Accordingly, the Court GRANTS defendant's request for a Protective Order limiting
14 defendant's production to plaintiffs' counsel of the personal identifying information of putative class
15 members to only the information for individuals who opt in to this action as plaintiffs.

16 In addition, the Court GRANTS defendant's request for a Protective Order prohibiting the
17 production to plaintiffs' counsel of the personal identifying information of individuals who were
18 employed by defendant as ARs or TRs during the class period in the state of California, as the parties
19 have agreed that California class members should be excluded in light of a settlement recently reached
20 in a similar case in California.

21 (2) The Clerk shall send a copy of this Order to all counsel of record.

22 DATED this 13 day of November, 2006.



23 RICARDO S. MARTINEZ
24 UNITED STATES DISTRICT JUDGE
25
26